THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.18763 OF 2006

DATED: 09.10.2006

BETWEEN:

T.P.Sai Prakash … petitioner

And

The Commissioner,
Kukatpally Municipality,
Moosapet, Hyderabad. … Respondent.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.18763 OF 2006

ORDER:

Heard Sri Sankaraiah, learned counsel for petitioner and Sri Pollishetty Radha Krishna, the learned Standing Counsel representing the respondent-municipality.

This Court ordered notice before admission on 11.9.2006 and status quo was granted for a limited period, which was being extended from time to time.

The writ petition is filed for a writ of mandamus declaring the action of the respondent in demolishing the compound walls and the room existing in the lands admeasuring Ac.0-13 guntas in survey No.313/B and Ac.0-18 guntas in survey No.314 and Ac.0-08 guntas in survey No.314/Pike of Moosapet village, Balanagar mandal, Ranga Reddy district, as illegal, arbitrary and contrary to the provisions of A.P. Municipalities Act 1965 and to pass such other order.

The petitioner states that he is the absolute owner and possessor of the land measuring 13 guntas in Sy.No.313/B and 18 guntas in Sy.No.314 and 8 guntas in Sy.No.314/Paiki of Moosapet village, Balanagar Mandal, Ranga Reddy district, having purchased the same through a registered sale deed dated 30.1.1965 bearing document No.100/1965. It is also stated that the petitioner obtained permission from the Executive Officer, Gram Panchayat vide proceeding GPM-22/76, dated 30.3.1976 and constructed compound walls around the said lands and also a room in order to protect the said

land from encroachments. It is further stated that in the month of October 1996 while the petitioner was getting repaired the partly damaged compound walls, the respondent took objection and issued notice in reference No.U.C.No.82/II/96, dated 19.10.1996 under Section 228(2) of the A.P.Municipalities Act 1965 alleging that the petitioner is constructing fresh compound wall without permission and called for his explanation for which he sent suitable reply and also filed suit in O.S.No.84 of 1997 on the file of the Principle District Munsif, Hyderabad West and South, Ranga Reddy district against the respondent seeking declaration that the said notice issued by the respondent as illegal, null and void and also for perpetual injunction. It is also stated that the learned Principal District Munsiff was pleased to grant ad interim exparte injunction and after receiving notice respondent remained ex parte and finally an ex parte decree was made on 6.6.1997 against the respondent restraining the respondents and its officials from demolishing the compound wall constructed in the said premises declaring the notice as illegal. It is stated that the said ex parte decree is within the knowledge of the respondent. Several other factual details also had been narrated and due to some political rivalry in the locality again the respondent had started threatening the petitioner with the demolition of the compound wall and the petitioner also referred to the issuance of notice in relation to the decree obtained in the aforesaid O.S.No.84 of 1997. In such circumstances, it is stated that the petitioner being left with no other option, approached this Court.

In view of the facts and circumstances, this Court is of the considered opinion that the respondent shall follow the procedure under the provisions of A.P. Municipalities Act 1965 before initiating any action whatsoever, especially in the light of the prior proceedings which had been referred to supra.

In view of the same, the respondent is hereby directed not to

resort to any demolition activity of the subject matter of the writ petition unless and until the respondent follows the due process of law and the provisions of A.P. Municipalities Act 1965. It is needless to say that the respondent is bound to take into consideration the prior judicial proceedings also in this context.

With the above direction, the writ petition is disposed of. No order as to costs.

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09.10.2006

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